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AF/2751

Express Mail Label No. EV 292568745 US

Date of Deposit: January 21, 2005

ATTORNEY'S DOCKET NO: E0295.70021US00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Wilson et al.
Serial No: 08/935,844
Conf. No.: 9098
Filed: September 23, 1997
For: METHOD AND APPARATUS FOR IMPLEMENTING A REMOTE
MIRRORING DATA FACILITY
Examiner: Kimberly McLean
Art Unit: 2751

Technology/Group No. 2187
Commissioner for Patents
Washington, D.C. 20231

APPELLANTS' SUPPLEMENTAL BRIEF UPON REINSTATEMENT OF APPEAL
UNDER 37 C.F.R. §1.193(b)(2)(ii) PURSUANT TO 37 C.F.R. §1.192

This supplemental brief is filed pursuant to the Notice of Appeal filed February 5, 2002, in the above-referenced application. The history of this appeal is as follows.

On May 1, 2002, Appellants filed an Appeal Brief.

On October 2, 2002, the Patent Office issued an Examiner's Answer.

On November 18, 2002, Appellants filed a Reply Brief.

On March 4, 2003, the Patent Office issued an order returning the undocketed appeal to the Examiner. Prosecution was reopened because the Amendment submitted on October 25, 2000 was never entered in the record, and therefore the claims listed in the Appendix of Appellants' Appeal Brief did not match the claims on record with the U.S. Patent and Trademark Office.

On October 21, 2004, the Patent Office issued an Office Action maintaining the rejections of all claims (i.e., claims 1-32, 34-60, 62-63 and 65-67) and addressing the limitations added via the Amendment submitted October 25, 2000. The content of the October 21, 2004 Office Action that is new relative to the prior Office Action (i.e., the Final Office Action mailed November 5, 2001) is underlined in the Office Action and comprises an additional paragraph on page 11 of the Office Action and several locations where the claim language added in the

Appellants' Supplemental Brief
Serial No. 08/935,844
Page 2

October 25, 2000 amendment has been added to the list of features that the Office Action alleges are shown by the prior art relied upon to reject the claims.

Appellants request reinstatement of their appeal under 37 C.F.R. §1.193(b)(2)(ii), and this Supplemental Brief is filed pursuant to that request.

Pursuant to 37 C.F.R. §1.192, this Supplemental Brief is being filed in triplicate. In accordance with Manual Patent Examining Procedures (MPEP) §1208.02, Appellants' Supplemental Brief hereby incorporates by reference Appellants' May 1, 2002 Appeal Brief that responded to the initial grounds of rejection. When Appellants filed the Appeal Brief, it was assumed that the October 25, 2000 Amendment had been properly entered. Accordingly, the arguments therein pertain to the claims that are currently on record. Appellants believe that no further comments are necessary to respond to the portions of the October 21, 2004 Office Action that are new relative to the November 5, 2001 final Office Action from which the appeal was taken.

It is believed that no additional extensions of time are required. In the event that additional extensions of time are necessary, however, then such extensions of time are hereby petitioned under 37 C.F.R. §1.136(a). As indicated in MPEP §1208.02, no additional fee is required over the fee previously paid by the Appellants for the Notice of Appeal and Appeal Brief for the filing of the present Supplemental Appeal Brief. However, any additional fees required for consideration of this paper are hereby authorized to be charged to Deposit Account No. 23/2825.

Respectfully submitted,



Richard F. Giunta, Reg. No. 36,149
WOLF, GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
Boston, MA 02210
Tel: (617) 720-3500
Attorneys for Appellants

Atty Docket No.: E0295.70021US00
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P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith are the following documents:

- Appellants' Supplemental Brief Upon Reinstatement of Appeal Under 37 C.F.R §1.193(b)(2)(ii) Pursuant to 37 C.F.R. §1.192
- Return Receipt Postcard

If the enclosed papers are considered incomplete, the Mail Room and/or the Application Branch is respectfully requested to contact the undersigned at (617) 646-8000, Boston, Massachusetts.

A check is not enclosed. If a fee is required, the Commissioner is hereby authorized to charge Deposit Account No. 23/2825. A duplicate of this sheet is enclosed.

Respectfully submitted,
Wilson et al., Applicants

By:

Richard F. Giunta
Richard F. Giunta, Reg. No.: 36,149
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, Massachusetts 02210-2206
Telephone: (617) 646-8000

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